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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/734,610	WEDEL ET AL.
	Examiner	**Art Unit**	
	MARY STEELMAN	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _11 June 2007_.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to Amendments and Remarks received 06/11/2007. Per

Applicant's request, claims 1 and 18 have been amended. Claims 1-20 are pending.

Specification

2.   The use of the trademark JAVA / JAVA Script (as an example, see pages 7, 9, 10, 13)

has been noted in this application. It should be capitalized wherever it appears and be

accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary

nature of the marks should be respected and every effort made to prevent their use in any manner

which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

Claims 1-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-

statutory subject matter. Claim 1 recites "A computer program product, tangibly embodied in an

information carrier..." The Specification, at page 11, line 30, defines a computer program

product to include a 'propagated signal', which is a non statutory embodiment. Claim 1 may be

amended to recite "A computer program storage product, for generating...

Amendment dated 06/11/2007 amended claim 1 to recite 'computer readable storage medium.

These is no antecedent basis for the claim terminology in the Specification. (MPEP 608.01(o).

The amendment is objected to under 37 CFR 1.75. The Specification, page 11 recites "computer

program produce...machine readable storage device..." Claim language should be amended to

be consistent with original Specification, and limiting to statutory embodiments.

5.   In view of the amendment to claim 18, the prior 35 U.S.C. 101 rejection of claims 18-20

is hereby withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6.   Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing

to particularly point out and distinctly claim the subject matter which applicant regards as the

invention.

See MPEP 7.35.01 Trademark or Trade Name as a Limitation in the Claim

Claims 1, 6, 7, 10, 13, 14, 16, 19, 20, 21, 25, 27, and 29 contain the trademark/trade name JAVA

/ JAVAScript. Where a trademark or trade name is used in a claim as a limitation to identify or

describe a particular material or product, the claim does not comply with the requirements of 35

U.S.C. 112, second paragraph. See Ex parte Simpson, 218 USPQ 1020 (Bd. App. 1982). The

claim scope is uncertain since the trademark or trade name cannot be used properly to identify

any particular material or product. A trademark or trade name is used to identify a source of

goods, and not the goods themselves. Thus, a trademark or trade name does not identify or

describe the goods associated with the trademark or trade name. In the present case,

the trademark/trade name is used to identify/describe byte code programming language and,

accordingly, the identification/description is indefinite.

The trademark JAVA is improperly relied upon in the claims to incorporate the technical

features of a particular programming language environment. However, the trademark JAVA can

only properly define the source of the programming language environment, namely Sun

Microsystems, Inc. Accordingly, the identification/description is indefinite. Sun Microsystems,

Inc. is the sole producer and/or licenser of JAVA products.

In contrast, for example, ECMAScript is a name used in trade to identify a particular

nonproprietary programming language conforming to an accepted standard. Products and

services incorporating the name are produced by numerous sources. Further, the technologies

identified using the trademark JAVA are continuously evolving. In view of the statements

presented above, it is asserted that the trademark JAVA has no fixed definite technical meaning.

Accordingly, a rejection under 35 U.S.C. 112, second paragraph, based on the use of the

trademark JAVA as a limitation in a claim, is proper.

Response to Arguments

Applicant's arguments filed 06/11/2007 have been fully considered but they are not persuasive.

Applicant has argued, in substance, the following:

(A)   Regarding independent claim 1, as noted on page 10 of Remarks, Nguyen fails to teach or suggest "generating a first trace output."

Examiner's Response:

Examiner disagrees. Monitoring a program execution, collecting data for analysis ([0038]) is analogous to generating a first trace output. Data collected may be persistently stored by the ISA (Integrated Security Administrator) [0040]. [0046], "Each server agent maintains monitoring information locally in the server data collection component 140, and also sends a copy of such monitoring information (trace output) to the data collection component 130 of the core system 110. A plurality of server agent monitoring / client agent monitoring (first trace output / second trace output) outputs are aggregated. [0053-0054], Significant events are aggregated / combined.

See Microsoft Computer Dictionary Fifth Edition (2002)

P. 525 - trace vb. To execute a program in such a way that the sequence of statements being executed can be observed. See also debugger, single step.

p. 346 - monitoring software n. A program or set of programs used to oversee computer-based systems and networks for the purpose of tracking usage or identifying, reporting on, and solving problems at the earliest possible stage. Monitoring software is used in a variety of areas ranging from hardware platforms and their components to operating systems, databases, Internet/intranet access, and business applications. Typically, different tools are used to monitor individual system components, though the individual monitors might feed information to a higher level monitor in order to encompass an entire computing environment.

These definitions are consistent with Examiner's interpretation of the prior art.

(B) Regarding independent claim 1, as noted on page 11 of Remarks, Nguyen fails to teach or suggest "generating the integrated trace output file."

Examiner's Response:

Examiner disagrees. See FIG. 3, monitor monitored elements, obtain, examine, combine event information. [0055], The assessment prediction component is used to characterize the event using monitoring and response rules....a prediction may be made (generating the integrated trace output file)

(C) Regarding dependent claim 3, as noted on page 13 of Remarks, Applicant argues the obvious statement.

Examiner's Response:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, **it would have been obvious, to one of ordinary skill in the art**, at the time of the invention, to modify Nguyen, using the teachings of Allen, **because one would understand that monitoring service time in a network of devices would trigger an event rule should the system not be properly operating. Sending Javascript in browser code is a known technique for communication protocol.**

Examiner maintains the rejection of claims 1-20.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 1, 2, and 4-20 are rejected under 35 U.S.C. 102(e) as being anticipated by US

Patent Application Publication US 2004/0064731A1 to Nguyen et al.

Per claim 1:

A computer program product, tangibly embodied in an information carrier, for generating an

integrated trace output file on a system having a first computing device and a second computing

device, the computer program product being operable to cause data processing apparatus to:

Nguyen: FIG. 2, #106, Client Agents, #108, Server Agents [0033], monitor and evaluate events

[[0038], The analysis and reporting component 120 provides tools to review and synthesize the

data collected.

-generate a first trace output at the first computing device;

-receive a second trace output from the second computing device;

-generate an integrated trace output file by combining the second trace output with the first trace

output.

Nguyen: [0039], reports may be generated by the analysis and reporting component 120 for the

IN as a whole (first trace, second trace). Alternatively, reports may be generated for particular

subsets of the IN...particular monitoring agents (first, second)...generate reports automatically

using predefined reporting formats [0054], A determination is then made as to whether the event

is suitable for aggregation (combining trace outputs)

Per claim 2:

-instructions to: provide an agent for detecting an event at the second computing device.

Nguyen: [0027], monitoring agents to monitor the monitored elements...client agents 106

Per claim 4:

-instructions to: identify a severity level for event detection at the first computing device;

-detect an event having the identified severity level.

Nguyen: [0033], The assessment prediction component (116) is used to characterize an event or sequence of events against predefined monitoring and response rules...may use appropriate mathematical techniques [0057], The response management component may respond to an event of set of events at one of several levels (severity level)..

Per claim 5:

-the severity level indicates whether the first trace output comprises an error message, a warning message, an information message, or a debug message.

Nguyen: [0057], inform level, enforce level, or prevent level.

Per claim 6:

-instructions to: identify a severity level for event detection at the second computing device;

-detect an event having the identified severity level.

See rejection of claim 4 above. Monitors are at each (second) computing device.

Per claim 7:

-the severity level indicates whether the second trace output comprises an error message, a

warning message, an information message, or a debug message.

Nguyen: [0057], inform level, enforce level, or prevent level.

Per claim 8:

-instructions to: receive an active component trace output from the second computing device.

Nguyen: [0049], client agents on a corresponding device (second) [0050], data collected by a

client agent ...sent to the core system.

Per claim 9:

-instructions to: combine the active component trace output with the first trace output.

Nguyen: [0054], event aggregation

Per claim 10:

-the second trace output includes an active component trace output generated at the second

computing device.

Nguyen: [0053], monitored elements are monitored by monitoring agents...when an event

associated with a particular monitored element (second computing device) occurs, a monitoring

agent obtains event information (active component trace output)

Per claim 11:

-the first computing device is a server and the second computing device is a client.

Nguyen: [0048], server agent is located on a server [0049], client agent & client device [0053], server agents and client agents

Per claim 12:

-instructions to: display the integrated trace output on the second computing device.

Nguyen: [0043], GUI display in toolkit component 126

Per claim 13:

-instructions to display the integrated trace output in a separate browser window.

Nguyen: [0043], GUI display in toolkit component 126

Per claim 14:

-instructions to generate the integrated trace output file comprise instructions to combine the second trace output with the first trace output in a chronological order.

Nguyen: [0033], characterize an event or sequence of events (chronological order) using rules and mathematical techniques [0054], combine the event with other events.

Per claim 15:

A method comprising:

-detecting an event at a client;

Nguyen: [0029], event detected in association with a monitored element (event detected at

client)

-generating a client-side trace output in response to the event detection at the client;

Nguyen: [0027], client agents which receive data collected from the set of monitored system

devices.

-transmitting the client-side trace output to a server for integration with a server-side trace

output.

Nguyen: [0032], correlation and aggregation component is used to combine a series of events

into one single aggregated event

Per claim 16:

-the event at the client device occurs while a user is interacting with an application program

executing on the server.

Nguyen: [0015], protecting an Information network (IN) using an Integrated Security

Administrator (ISA), comprising obtaining a plurality of events on the IN [0024], An Integrated

Security Administrator (ISA) (application program executing on the server) for managing and/or

protecting information and assets of an enterprise's Informational Network (IN). [0025], The

ISA may also interact with external entities, such as managed services...computer

security...computer network security components [0026], The ISA includes one or more

monitored elements...system devices...network devices...

Nguyen: [0027], client agents which receive data collected (events at client device) from the set of monitored system devices

Per claim 17:

-detecting an event at the server while the user is interacting with the application program;

-generating the server-side trace output in response to the event detection at the server;

-integrating the server-side trace output with the client-side trace output to generate a single trace output file.

Nguyen: [0066], Enterprise's computer network firewalls and IDS's (Intrusion Detection Systems) receive hundreds of different attacks, recognize and react...correlation and aggregation component and the analysis and reporting component perform correlation ..The response management component coordinates a single, distributed response that affects the monitored elements...

Per claim 18:

A system for generating an integrated trace output file, the system comprising:

a client agent including:

-a detection module configured to detect an event at a client;

-a generation module configured to generate a client-side trace output in response to the event detection at the client;

-a communication module configured to transmit the client-side trace output to a server;

a server agent including:

-a detection module configured to detect an event at the server;

-a generation module configured to generate a server-side trace output in response to the event

detection at the server;

-a communication module configured to receive the client-side trace output from the client;

-an integration module configured to generate an integrated trace output file by combining the

client-side trace output with the server-side trace output.

Nguyen: [0027], monitoring agents to monitor the monitored elements...client agents 106,

server agents 108, receives data collected (generate trace output) from the set of monitored

applications and the set of monitored network devices. [0029], correlation and aggregation

component 115 (integrate trace output) , analysis and reporting component 120, data collection

component 130 [0030], The workflow engine component 114 provides a mechanism for

defining steps and or sequences of steps that the ISA may take in response to a given event

detected in association with a monitored element.

Per claim 19:

-a client program including the client agent.

Nguyen: [0049], client agents for client device (client program)

Per claim 20:

-an application program including the server agent. ·

Nguyen: [0046-0048], server agents for server device

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

9.   Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent

Application Publication 2004/0064731A1 to Nguyen et al., in view of US Patent Application

Publication 2003/0005111 A1 to Allan.

Per claim 3:

Nguyen failed to explicitly disclose:

-instructions to provide the agent further comprise instructions to employ JavaScript code.

However Allan disclosed:

(Abstract) Monitoring service time in a computer network, including response time for a uniform

resource identifier request received from a client machine. [0033] All three of these methods

take advantage of the cookie present in each request originating from an instrumented container

page; that is, a page containing the QoS JavaScript agent. The cookie is data stored on a client

computer and used by web sites to keep track of a user's patterns and preferences. The cookie is

a key that can be used to impose the notion of a session on a series of otherwise disparate

requests. Each method creates a table of key/value pairs, where the key is the cookie inserted

into the Hypertext Transport Protocol (HTTP) request header and the value is the time stamp

signifying when the service time for a given Uniform Resource Identifier (URI) is complete.

[0041] Referring to FIG. 4...Upon receiving the response stream from the origin server (step

403), the reverse proxy will instrument a valid response stream with the JavaScript agent and

respond to the original client request with this instrumented response stream (step 404). The

instrumentation contains the original T1 value as well as the service time taken for the container

page. As the page is received at the client, the browser parses the page and issues a request for

each of the URIs that make up the presentation of the page, which are generally the images

contained on the page (step 405). As each request is received by the QoS agent, i.e. either the

reverse proxy or some other agent (such as a web server plug-in), the agent searches for the

JavaScript-inserted cookie in the request headers and creates a new table entry using the value of

this cookie as the key in the table, if the key does not already exist (step 406). The QoS agent

then forwards the request to the origin server (step 407). When the origin server responds with

the resource (step 408), the QoS agent marks the time of the response T2, updates the table

entry value with this time stamp, and responds to the requesting client (step 409)...The

difference between this value and the T1 value of the transaction record is the service time for

the transaction.

Therefore, it would have been obvious, to one of ordinary skill in the art, at the time of the

invention, to modify Nguyen, using the teachings of Allen, because one would understand that

monitoring service time in a network of devices would trigger an event rule should the system

not be properly operating. Sending Javascript in browser code is a known technique for communication protocol.

Conclusion

10.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Steelman, whose telephone number is (571) 272-3704. The examiner can normally be reached Monday through Thursday, from 7:00 AM to 5:30 PM If

attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei

Zhen can be reached at (571) 272-3708. The fax phone number for the organization where this

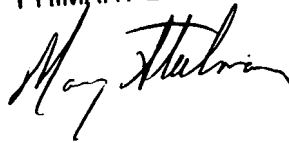application or proceeding is assigned: 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be

directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mary Steelman

08/21/2007   MARY STEELMAN
                                              PRIMARY EXAMINER